

§ 1412.50 Matters of general applicability.

These regulations and CCC's interpretation of the regulations and internal agency directives issued to State and county FSA offices are matters of general applicability and are not individually appealable in administrative appeals according to §§ 11.3 and 780.5 of this title. Additionally, these rules and any decisions of CCC and FSA that are not based on facts derived from an individual participant's application, contract, or file, including but not limited to, decisions of whether or not to conduct a lottery, lottery selection process and results, signup deadlines, direct payment rates, counter-cyclical payment rates, or any other generally applicable payment rate or rates, national average market prices, determinations of production of crops produced in a State or States, actual State yields, benchmark State yields, program guarantee price or prices, or determinations of CCC regarding the percentage of acreage of a crop in State that is irrigated or non-irrigated, or any other similar determination that is made by CCC or FSA for use in all similarly situated applications, are not appealable under part 11 or part 780 of this title. The only extent by which the matters referenced in this section, and like similar generally applicable matters, are reviewable administratively in an appeal forum is whether FSA's or CCC's decision to apply the generally applicable matter is factually accurate and in conformance with the regulations in this part.

Subpart E—Financial Considerations Including Sharing Payments**§ 1412.51 Limitation of payments.**

(a) The provisions of part 1400 of this chapter apply to this part. Payments under this part will not exceed the amounts specified in part 1400 of this chapter. As determined under that part, no person may receive more than \$40,000 in direct payments or \$65,000 in counter-cyclical payments with respect to any contract or crop year. For ACRE participants, no person may receive more than in ACRE and counter-

cyclical payments and direct payments combined, more than the sum of:

(1) \$65,000 and

(2) The amount of the reduction in direct payments required by the ACRE contract.

(b) The amount of 2008 direct and counter-cyclical payments for a farm will not exceed the maximum amount that would have been paid based on the number of persons as determined in accordance with part 1400 of this chapter on the farm as of May 22, 2008.

(c) Except as provided in this section, notwithstanding any other provision of this part, for the 2009 and subsequent crops, a producer on a farm will not receive direct payments, counter-cyclical payments, or ACRE payments if the sum of the base acres of covered commodities and peanuts on the farm is 10 acres or less. The 10-acre limitation of this subsection will not apply to a farm that is wholly-owned by a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003 (e))) or a limited resource farmer or rancher, as defined by the Secretary. If such farm is owned by a legal entity, such as a corporation, each individual or entity with any interest in the entity must be a socially disadvantaged or limited resource farmer or rancher.

§ 1412.52 Direct payment provisions.

(a) For 2008 through 2012 contracts, a final direct payment will be made to eligible producers on a farm enrolled in a contract with respect to covered commodities and peanuts for which payment yields and base acres are established on or after October 1 of the fiscal year following the fiscal year of the contract in which the direct payment was earned.

(b) For 2008 through 2011 contracts, at the option of the producer, 22 percent of the direct payment for the farm with respect to covered commodities and peanuts for which payment yields and base acres are established will be paid in any month from December through September of the fiscal year of the contract, as requested by the producer, as an advance direct payment. Advance direct payments are not available for the 2012 crop year. For any participant